

## FACTSHEET IMPACT OF A FELONY CONVICTION AND ONE'S ELECTORAL RIGHTS

The United States Constitution gives every citizen the right to vote. However, persons sentenced for a felony may lose some of their rights. The following information is from Hawaii Revised Statutes Section §831-2.

### PERSONS SENTENCED FOR A FELONY:

1. **MAY NOT VOTE** in an Election while committed to imprisonment for a felony.
2. **MAY VOTE** in an Election:
  - a. if execution of sentence is suspended with or without the defendant being placed on probation;
  - b. if the defendant is paroled after commitment to imprisonment (serving time) during the period of suspension or parole.

### CANDIDATES FOR PUBLIC OFFICE:

1. A person sentenced for a felony **may not** become a candidate for or hold public office from the time of the person's sentence until the person's final discharge.
2. A person sentenced for a felony and still on probation or parole **may not** become a candidate for public office.
3. A person sentenced for a felony must receive his/her final discharge before he/she is eligible to file nomination papers (Att. Gen. Ltr. Ops. August 20, 1974 and July 14, 1978).

## PERSONS HOLDING PUBLIC OFFICE:

1. A public office held at the time of sentence is forfeited:
  - a. **Sentence is in Hawaii**: as of the date of the sentence, or
  - b. **Sentence is in another state or in a federal court**: as of the date a certification of the sentence from the sentencing court is filed in the Office of the Lieutenant Governor who shall receive and file it as a public document.
2. A person convicted of any act, attempt, or conspiracy to overthrow the state or federal government by force or violence shall not hold public office or employment.

NOTE: As a reference, this fact sheet is not to be used as the authority on the law on felony convictions and election rights. See Section §831-2, Hawaii Revised Statutes and Article II, Section 2, Hawaii State Constitution for a complete and legal basis of the law.

## EXTRACTED FROM THE 1993 ELECTION LAWS OF HAWAII HANDBOOK.

### HAWAII STATE CONSTITUTION

#### ARTICLE II SUFFRAGE AND ELECTIONS

#### QUALIFICATIONS

**Section 1.** Every citizen of the United States who shall have attained the age of eighteen years, have been a resident of this State not less than one year next preceding the election and be a voter registered as provided by law, shall be qualified to vote in any state or local election. [Am Const Con 1968 and election Nov 5, 1968; am SB No 41 (1971) and election Nov 7, 1972; Am Const Con 1978 and election Nov 7, 1978]

## **DISQUALIFICATION**

**Section 2.** No person who is non compos mentis shall be qualified to vote. No person convicted of a felony shall be qualified to vote except upon the person's final discharge or earlier as provided by law. [Am Const Con 1968 and election Nov 5, 1968; Am Const Con 1978 and election Nov 7, 1978]

## **RESIDENCE**

**Section 3.** No person shall be deemed to have gained or lost residence simply because of the person's presence or absence while employed in the service of the United States, or while engaged in navigation or while a student at any institution of learning. [Am Const Con 1978 and election Nov 7, 1978]

## **REGISTRATION; VOTING**

**Section 4.** The legislature shall provide for the registration of voters and for absentee voting and shall prescribe the method of voting at all elections. Secrecy of voting shall be preserved; provided that no person shall be required to declare a party preference or nonpartisanship as a condition of voting in any primary or special primary election. Secrecy of voting and choice of political party affiliation or nonpartisanship shall be preserved. [Am Const Con 1978 and election Nov 7, 1978]

**EXTRACTED FROM THE 1993 ELECTION LAWS OF HAWAII HANDBOOK.**

## **HAWAII REVISED STATUTES**

### **CHAPTER 831**

### **UNIFORM ACT ON STATUS OF CONVICTED PERSONS**

**§831-2 Rights lost.** (a) A person sentenced for a felony, from the time of the person's sentence until the person's final discharge, may not:

- (1) Vote in an election, but if execution of sentence is suspended with or without the defendant being placed on probation or the defendant is paroled after commitment to imprisonment, the defendant may vote during the period of the suspension or parole; or
- (2) Become a candidate for or hold public office.

- (b) A public office held at the time of sentence is forfeited as of the date of the sentence if the sentence is in this State, or, if the sentence is in another state or in a federal court, as of the date a certification of the sentence from the sentencing court is filed in the office of the lieutenant governor who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section, but if the conviction is reversed the defendant shall be resorted to any public office forfeited under this chapter from the time of the reversal and shall be entitled to the emoluments thereof from the time of the forfeiture.
- (c) Subsections (a) and (b) of this section and any other laws to the contrary notwithstanding, any person convicted of any act, attempt, or conspiracy to overthrow the state or the federal government by force or violence shall not hold any public office or employment.

[L 1969, c 250, pt of §1; HRS §716-2; ren L 1972, c 9, pt of §1; am L 1979, c 53, §2; am imp L 1984, c 90, §1]

**§831-3.1 Prior convictions; criminal records; noncriminal standards.** (a) A person shall not be disqualified from public office or employment by the State or any of its political subdivisions or agencies except under section 831-2(c), or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, licence, registration, or certificate is required by the State or any of its political subdivisions or agencies, solely by reason of a prior conviction of a crime; provided that with respect to liquor licenses, a person who has been convicted of a felony may be denied a liquor licences by the liquor commissions.

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[L 1974, c 205, §2; am L 1975, c 54, §1; am L 1976, c 113, §2; am L 1979, c 53, §3; am imp L 1984, c 90, §1; am L 1985, c 155, §3 and c 209, §8; am L 1987, c 339, §4; am L 1989, c 74, §2 and c 116, §1; am L 1993, c 40, §2]

This Factsheet is intended for informational purposes only and should not be used as an authority on the Hawaii election law and deadlines. Requirements and/or deadlines may change pending changes in legislation. Consult the Hawaii Revised Statutes and other sources for more detailed and accurate requirements.

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Apr. 21, 98, Aug. 31, 99, NR Mar. 2000